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## FAX TRANSMISSION

**DATE:** April 27, 2007

**PTO IDENTIFIER:** Application Number 09/766,736-Conf. #1298

Patent Number

**Inventor:** Edward J. Bortolini et al.

**MESSAGE TO:** US Patent and Trademark Office (MS APPEAL BRIEF - PATENTS)

**FAX NUMBER:** (571) 273-8300

**FROM:** PATTON BOGGS LLP

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**Attorney Dkt. #:** 013436.0235PTUS (Bortolini 6-7-1)

**PAGES (Including Cover Sheet):** 4

**CONTENTS:** Certificate of Transmission (1 page)  
Response To Notification Of Non-Compliant Appeal Brief (37 CFR 41.37) mailed 04/10/2007  
(1 page)  
Replacement Page 3 of Appeal Brief (1 page)

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Application No. (if known): 09/766,736

Attorney Docket No.: 013436.0235PTUS  
(Bortolini 6-7-1)**Certificate of Transmission under 37 CFR 1.8**

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1. Response To Notification Of Non-Compliant Appeal Brief (37 CFR 41.37) mailed 04/10/2007 (1 page)
2. Replacement Page 3 of Appeal Brief (1 page)

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Docket No.: 013436.0235PTUS  
(Bartolini 6-7-1)  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Edward J. Bartolini et al.

Appellant: Lucent Technologies, Inc.

Application No.: 09/766,736

Confirmation No.: 1298

Filed: January 22, 2001

Art Unit: 2611

For: DISTRIBUTED BROADBAND CABLE  
MODEM TERMINATION SYSTEM

Examiner: U. Raman

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**  
**(37 CFR 41.37)**

MS APPEAL BRIEF - PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

In response to the Notification Of Non-Compliant Appeal Brief dated April 10, 2007, attached please find a replacement Page 3 to the Appeal Brief. As required, Paragraph 3.) Status Of The Claims has been amended to add the following sentence:

Claims 1, 6, and 11 - 24 are appealed.

Appellant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-1848, under Order No. 013436.0235PTUS from which the undersigned is authorized to draw.

Respectfully submitted,  
PATTON BOGGS LLP

Dated: 27 APRIL 2007

By: James M. Graziano  
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Application No. 09/766,736  
Appellant's Appeal Brief

Docket No.: 013436.0235PTUS  
(Bortolini 6-7-1)

### List of References

Appellant's admitted prior art system as disclosed in Figure 2 of the disclosure

## OUTLINE OF APPEAL BRIEF

### 1.) REAL PARTY IN INTEREST

The party named in the caption of the Appeal Brief is Lucent Technologies, Inc.

A full list of inventors is: Edward J. Bortolini, Chia Chang Li, and Roger W. Loots.

The subject matter of the invention was derived from research efforts undertaken by Edward J. Bortolini, Chia Chang Li, and Roger W. Loots in March 2000.

The rights to the present invention were assigned by the inventors, Edward J. Bortolini, Chia Chang Li, and Roger W. Loots in an Assignment document dated 04 December 2000, 12 December 2000, and 15 January 2001, respectively, filed on 22 January 2001, recorded at Reel 011498, Frame 0078 on 22 January 2001, and re-recorded at Reel 011788, Frame 0313 on 07 May 2001.

The real party of interest is accordingly Lucent Technologies, Inc., because Lucent Technologies, Inc. owns the entire right, title, and interest to the present invention.

### 2.) RELATED APPEALS AND INTERFERENCES

Currently, no appeals or interferences are known by any party.

### 3.) STATUS OF THE CLAIMS

Claim: 1, 6, and 11 - 24 are pending and all are rejected. In the Final Office Action mailed 19 October 2006, claims 6 and 21 - 24 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention. Claims 1, 6, and 11 - 24 have been further rejected under 35 USC §102(b) as being anticipated by Appellant's admitted prior art system as disclosed in Figure 2 of the disclosure. Claim: 1, 6, and 11 - 24 are appealed.